

CITY OF CHULA VISTA PROPOSAL TO IAFF  
REGARDING FFBOR AND REPRIMAND APPEAL PROCEDURES

PROPOSAL # \_\_\_\_\_  
DATE: February 19, 2014

PROPOSALS:

The City submits the following counter proposal to IAFF's proposal on FFBOR.

| CONCERN:

The City seeks to comply with the FFBOR only to the extent required by its terms. However, the City reserves its rights to challenge the FFBOR for any reason it deems appropriate. The City also seeks to keep discipline procedures, including application of Civil Service Rules and Charter role of the Civil Service Commission, uniform throughout the City.

PROPOSAL:

The following article shall be added to the MOU:

ARTICLE X.XX      FIREFIGHTERS BILL OF RIGHTS AND REPRIMAND  
APPEAL PROCEDURES

1. FIREFIGHTERS BILL OF RIGHTS      The State of California enacted the Firefighter Bill of Rights ("FFBOR") as set forth in Government Code sections 3250-3262. The City agrees to abide by the Firefighter Bill of Rights only to the extent required by its terms. The City reserves any and all rights challenge or object to for any reason in any forum or venue any aspect or term of the Firefighter Bill of Rights and not to apply it, as the City, in its discretion, determines it is not applicable or lawful. This paragraph is not meant to and does not increase the applicability of the Firefighter Bill of Rights or create any additional rights or requirements based therein.
2. APPEAL PROCEDURES FOR WRITTEN REPRIMANDS. The following procedure shall apply only to written reprimands:
  - A. Appeal to the Fire Chief or His/Her Designee
    - i. A firefighter who receives a written reprimand shall be entitled to appeal the action to the Fire Chief prior to the effective date of the written reprimand. The appeal is an opportunity for the firefighter to present written material and arguments why the reprimand should not occur or offer alternatives to the action.

- ii. Notice of Appeal: Within seven (7) calendar days of receipt by a firefighter of notification of a written reprimand, the firefighter shall notify the Fire Chief in writing that he/she intends to appeal the written reprimand. The notice of appeal shall specify the action being appealed. Failure to timely file the Notice of Appeal waives the right to an appeal.
- iii. The Fire Chief or his/her designee shall act as Reviewer of the appeal. If the Fire Chief or designee cannot act as the Reviewer because of actual bias, prejudice or interest as defined by Government Code §11425.40, then the Director of Human Resources or his/her designee shall act as the Reviewer of the appeal. The Reviewer shall have five (5) calendar days from receipt of the request to schedule the review of appeal. Unless otherwise agreed by the parties or good cause exists as determined by the Reviewer, the review shall take place within thirty (30) calendar days of the date the firefighter was notified about the written reprimand. The decision of the Fire Chief or Human Resources Director, as the case may be, under this section shall be final.
- iv. During the review of the appeal, the parties may present written materials and oral statements but are not entitled to confront and cross-examine witnesses. The Reviewer shall make a determination based on the reasonableness of the reprimand under the totality of the circumstances.
- v. Representation: At the hearing on appeal, The Firefighter may be represented by the representative of his or her choice.

3. NOT GRIEVABLE. The provisions of this Article are not subject to the grievance procedures set forth in this MOU.

#### RESULTS:

The City is in compliance with FFBOR and maintains its rights under the California Constitution and City Charter.